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SUBJECT: IMPLICATIONS OF KASAB'S CONFESSION IN TERRORIST CASE

REF: A. NEW DELHI 1508
[1](#)B. MUMBAI 169

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[1](#)1. (SBU) Summary: On July 20, Mohammad Ajmal Amir Kasab, the lone surviving terrorist from the November 26 attack on Mumbai, changed his plea to guilty, and confessed his role in the attacks. In a four-hour address to the court, Kasab detailed his involvement in the attacks, including the identification of Pakistani and Indian co-conspirators. The court has yet to announce if it will accept Kasab's plea and legal experts were quick to note discrepancies in this most recent confession from his earlier confession, which he recanted. Implications for the prosecution of others involved in the planning of the attack are as yet unclear, but his statement cannot be used as direct evidence against other co-conspirators. While his exact motivations are unclear, it appears that his confession and guilty plea may be the best way for him to avoid the death penalty, where the evidence is strongly against him. End Summary.

DETAILS OF THE CONFESSION

[1](#)2. (U) On July 20, Mohammad Ajmal Amir Kasab, the lone surviving terrorist from the November 26 attack on Mumbai, made a surprise confession and pled guilty to the charges against him. Kasab provided a four-hour detailed account of the planning and execution of the attack, including how he joined the terrorist training camp, identifying his Lashkar-e-Taiba (LeT) handlers such as Hafiz Mohammed Saeed and Zaki-ur-Rehman Lakhvi, his journey by sea from Pakistan aboard four different vessels, and his actions in Mumbai. Kasab's confession is reported in detail by local media:
<http://timesofindia.indiatimes.com/NEWS-India -Mujhe-gunah-k-abool-hai/articleshow/4801037.cms>.

INDIAN CO-CONSPIRATOR NAMED

[1](#)3. (SBU) For the first time, Kasab identified an Indian national, Abu Jundal, as a co-conspirator. He claimed that Abu Jundal was at the terrorist training camp in Pakistan, and served as his Hindi teacher and one of his LeT handlers. The prosecutor, Ujjwal Nikam dismissed this portion of Kasab's testimony, alleging it was offered to mislead the investigation.

However, the Times of India (ToI) quoted an unnamed security official as saying Jundal "has been one of the most-wanted leaders and we have been trying to track him down for the past 15 years." The report said Jundal was originally from Hyderabad where he was affiliated with Islamic extremists and was recruited by the Pakistani Inter-Services Intelligence (ISI). ToI reported that Indian security sources previously identified Jundal as having played a critical role in the Indian Mujahideen (IM) attacks on Ahmedabad, Jaipur, Delhi and other places across the country, and indicated that he may have been the link to terrorist elements in India who provided reconnaissance and logistical support for the attack on Mumbai.

WHY CONFESS NOW?

¶4. (SBU) After 65 days of trial and the testimony of 134 witnesses, Kasab's sudden confession took the court, the prosecutor, and his own attorney by surprise. Special Judge M.L. Tahilyani questioned Kasab to determine if his confession had been coerced, but Kasab responded, "Initially, Pakistan had not accepted my nationality. Now that they have, I am confessing." Kasab refused to disclose how he came to know that Pakistan acknowledged him as a Pakistani citizen, a point of interest to the court as Kasab had been denied access to any reading material and was kept apart from the rest of the jail population. (Note: In its July 14 dossier regarding its investigation into the Mumbai attacks, Pakistan acknowledged Kasab as Pakistani. On July 19, the media reported the details of the dossier which had been leaked. That Kasab knew this fact suggests that someone broached the media black out the court had imposed on Kasab. End note.)

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¶5. (SBU) If Kasab's trial ends now, the confession blocks the testimony of Federal Bureau of Investigation experts who interviewed Kasab shortly after his arrest, and the testimony of FBI officials and communications technology experts concerning GPS evidence used to track Kasab's path to India and identify the location of the terrorist training camp. (Note: LEGATT in New Delhi is requesting a transcript of the confession to review it in further detail. End note.)

¶6. (SBU) The court must first decide whether to accept the plea, and if accepted, must determine the punishment. Parvez Memon, a criminal attorney in Mumbai, told Congenoff that Kasab's only hope to avoid the death penalty was to plead guilty. His confession also sought to mitigate his culpability for the deaths of police. In his confession, Kasab said that his partner, Abu Ismail, killed Maharashtra Anti-Terrorism Squad Chief Hemant Karkare, Additional Commissioner Ashok Kamte, and another senior police official. He blamed another team member, Abu Shoaib, for the murder of the boat navigator, Amar Singh Solanki, which occurred en route to Mumbai. Kasab also sought to exculpate himself from the death of policeman Tukaram Ombale, claiming his own AK-47 had already been snatched from him by the policemen who pounced on him. "I did not get a chance to fire. I heard a lot of firing. The next thing I knew I was in the hospital." Kasab said. These exculpatory claims contrast with the confession he had originally given at the time of his arrest, which was subsequently withdrawn when Kasab entered his not guilty plea to the court at the start of the trial.

IMPLICATIONS FOR PROSECUTION OF CO-CONSPIRATORS

¶7. (SBU) The implications of this confession on the prosecution of co-conspirators in India or in Pakistan are as yet unclear. A legal source told Congenoff that the confession was taken under oath before a judge, making it valid as corroborating evidence against the two co-conspirators under trial with Kasab, but, the source said, the testimony could not be used as direct evidence. Indian jurisprudence, as in America, generally requires the right to cross examine witnesses, making Kasab's testimony in this case useless in other prosecutions if he is not presented as a witness in those trials. (Note: Legal contacts could not opine whether this would also be the case for trials in Pakistan. End note.) Further, if the death penalty is exacted against Kasab before he can testify in those cases, his confession may be unusable as evidence.

DEFENSE CLAIMS RIGHT TO AN ATTORNEY ABRIDGED

¶8. (SBU) In addition to the complications added by the confession, Kasab's attorney, Abbas Kazmi, complained to the court that meetings he had with his client were always in the presence of jail officials, denying Kasab the right to confidential communications with his attorney. Further, Kazmi said that his visits with his client were limited to 15 minutes per day, hardly sufficient to fully brief his client on the charges, the legal implications, or to plan a trial strategy.

¶9. (SBU) Comment: Most legal observers in Mumbai agree that Kasab's turnaround is an effort to avoid the death penalty, and to credit the most heinous acts of their terror spree to his dead co-conspirators. Throughout his public statements, Kasab has never espoused jihadist ideology; to the contrary, he sought to exculpate himself from direct blame for several deaths. Also, by pointing the finger at the ISI and Indian Mujahideen, Kasab has increased his value as a source of information for India's security experts, helping to ensure his survival. This guilty plea has come as a relief to many of the victims of the attacks, who are hopeful that justice will be meted out sooner than later. End Comment.
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